

Application No.: 10/719,554
Amendment and Response dated July 28, 2006
Reply to Office Action of March 1, 2006
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REMARKS

Claims 1-11 are currently pending in this application. Claim 1 has been amended herein. New claims 10 and 11 have been added. Applicants respectfully request reconsideration of the application based on the above amendments and the following remarks.

Applicants' Response to Rejection under 35 U.S.C. §103 over Buch in view of Clark

Claims 1-9 are rejected under 35 U.S.C. § 103(a), as allegedly being obvious over U.S. Patent No. 5,723,106 to Buch et al. (hereinafter “Buch”) in view of U.S. Patent No. 4,933,172 to Clark, Jr. et al. (hereinafter “Clark”). Applicants respectfully request reconsideration on the basis that the combination of references fails to render the claims obvious, as amended herein.

The Examiner alleges that Buch discloses an oral composition including eucalyptol, menthol, methyl salicylate, thymol, benzoic acid, a sugar alcohol and a surfactant. The Examiner further contends that Clark teaches the use of an NSAID for preventing and treating gingivitis. According to the Examiner,

The teaching of Buch differs from the claimed invention in the addition of nonsteroidal anti-inflammatory drug (i.e., NSAID) in said composition To incorporate such teaching into the teaching of Buch, would have been obvious in view of Clark, Jr. who teaches the use of NSAID for treating gingivitis.

(Office Action, at Page 3).

Applicants have amended independent claim 1 herein to further define the invention. In particular, Applicants have added a recitation in claim 1 that requires the NSAID to be selected from salicylic acid derivatives, para-aminophenol derivatives, indole and indene acetic acids, heteroaryl acetic acids, propionic acid derivatives, enolic acids, alkanones, apazone and nimesulide.

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The cited combination of references fails to disclose, teach or suggest any of the NSAIDS recited in Applicants' amended claim 1. As acknowledged by the Examiner, Buch does not contain any disclosure relating to NSAIDS. Clark merely teaches the use of 2-(2,6-dichloro-3-methylphenylamino)benzoic acid, which is meclofenamic acid, for treating periodontal disease. Meclofenamic acid, however, is a fenamate and does not fall into any of the categories of NSAIDS recited in amended claim 1.

Moreover, there is no suggestion to modify the teachings of Clark to use an NSAID other than meclofenamic acid in the compositions of Buch. In particular, as explained in Clark:

[meclofenamic acid's] anti-inflammatory activity does not appear to be responsible for its ability to alter the progression of gingivitis to periodontitis since such action is not accompanied by a reduction in clinically detectable inflammation. Nor does it appear that the therapy substantially alters the subgingival microbiota.

(Clark; Col. 1, lines 49-55).

In view of the above passage, one of ordinary skill in the art would not be motivated to substitute another anti-inflammatory agent for meclofenamic acid because Clark expressly teaches that it is not the anti-inflammatory activity that provides the ability to treat periodontal disease. Therefore, there is no suggestion to modify the teachings of Clark to use a different NSAID. Any such rejection would be an improper obvious to try rationale. *See MPEP § 2145.* Therefore, there is no suggestion or motivation to combine Buch and Clark and further modify the teachings to use one of the NSAIDS recited in Applicants' amended claim 1.

In view thereof, amended claim 1, and thus claims 2-11 which depend therefrom, are patentable over Buch and Clark each taken alone or in combination. Applicants respectfully request reconsideration of the Section 103 rejection.

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Furthermore, nowhere in Buch or Clark is there any disclosure or suggestion of the specific NSAIDS recited in Applicants' new claims 10 and 11.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 08-2461. Such authorization includes authorization to charge fees for extensions of time, if any, under 37 C.F.R. § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

Should the Examiner have any questions or comments concerning the above, the Examiner is respectfully invited to contact the undersigned attorney at the telephone number given below.

Respectfully submitted,



Jamie M. Larmann
Registration No.: 48,623
Attorney for Applicants

Warner-Lambert Company, LLC
201 Tabor Road, 56-2S
Morris Plains, NJ 07950
(973) 331-1700